

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
CHATHAM COUNTY

William F. Grove

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No.:

JURY TRIAL DEMANDED

COMPLAINT FOR ABATEMENT OF PENALTIES

Comes now the Plaintiff, William F. Grove (the "Plaintiff"), by and through his attorney, Jeffrey L. Williamson, Esq., and files this complaint against the United States of America, Department of Treasury, Internal Revenue Service (the "Defendant") respectfully alleging the following.

I. PARTIES, JURISDICTION, & VENUE

1. At all times at issue, Plaintiff was and continues to be a resident of Chatham County, Georgia.
2. Defendant is the United States of America, Department of Treasury, Internal Revenue Service ("IRS").
3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1346(a) due to the Plaintiff bringing a civil action against the United States for a penalty alleged to have been excessive.
4. Venue is proper pursuant to 28 U.S.C. § 1391(b).

5. Plaintiff filed Form 843 (*Claim for Refund and Request for Abatement*) and Form 2848 (*Power of Attorney and Declaration of Representative*) in December 2019, but the IRS has no record of receiving these refund claims.

6. The forms were resent on July 11, 2022. Therefore, the six-month requirement between filing the claim and initiating the lawsuit has been satisfied per IRC § 6532.

II. FACTUAL ALLEGATIONS

7. Plaintiff incorporates by reference paragraphs 1 through 6 of this Complaint as though the same were set forth fully herein.

8. William F. Grove ("Bill") is married to Susan H. Grove ("Susan"), and together they have one daughter, Page Grove ("Page"). Mr. and Mrs. Grove may be collectively referred to as "the Groves."

9. For tax years 2010 through 2016, William F. Grove admits to late filing and late payment of income tax liabilities due to reasonable cause.

10. Beginning in 2001, the Groves dealt with a myriad of serious health issues concerning both Susan and Page.

11. In June 2001, Susan underwent a debulking surgery- i.e., a total hysterectomy and removal of omentum and eight lymph nodes, among other procedures.

12. Following her debulking surgery, Susan was diagnosed with late-stage advanced fallopian tube cancer at Memorial Hospital in

Savannah.

13. She began chemotherapy in August 2001 and has suffered from a compromised immune system since undergoing the treatment.

14. From August 2001 to March 2002, Susan experienced a slew of illnesses and side effects of the chemotherapy, including various infections, including bladder and kidney infections; severe nausea; low white blood cell count; exhaustion; weakness; mouth blistering; diarrhea; and kidney stones.

15. Throughout this period, Susan was too ill to care for Page (then eleven years old), and Bill was working long hours to keep the family financially sound. Susan required regular visits from nurses to administer intravenous medication during this time, and her home fell into disarray.

16. Beginning in August 2001, Susan underwent treatment for severe depression and anxiety, as well as frequent migraines, myalgia, and neuropathy.

17. Susan also suffered from degenerative osteoarthritis prior to chemotherapy, and the effects of the chemotherapy exacerbated her condition. She was in constant pain and unable to move without leg braces and walking canes.

18. In September 2001, Susan was diagnosed with diverticulitis, resulting in two separate hospital visits.

19. Susan underwent a double hip replacement in the Fall of 2002.

20. Susan was diagnosed with hepatitis A in January 2003.

21. From 2003 to 2007, Susan was frequently hospitalized for kidney stones, diverticulitis flare-ups, bowel blockages, and abdominal hernias. She was almost always sick during this period.

22. In the Spring of 2008, Susan was diagnosed with diabetes and spent over a week in the hospital trying to control the levels of sugar in her blood.

23. In December 2009, Susan suffered a fall and fractured vertebra in her lower lumbar. She was forced to wear a back brace in addition to her already existing leg braces. She struggled to sleep, sit, stand up, walk, and eat. The pain was excruciating.

24. From October 2010 through December 2010, she underwent two major surgeries to repair eight abdominal hernias — hernias that developed following her chemotherapy.

25. To treat the multiple hernias, a titanium mesh was inserted into her abdomen. This mesh became infected, and Susan became grievously ill.

26. During the surgery to remove the mesh and replace it with a bovine stomach lining, a metal suture was left in Susan's abdominal cavity. The procedure nearly killed her. She spent a total of five weeks in the hospital in this three-month span and has suffered from chronic ulcers since the suture was left in her abdomen.

27. In November 2014, Susan began experiencing symptoms of atrial fibrillation ("A-fib").

28. From November 2014 to January 2015, Susan went to the

emergency room for A-fib episodes at least thirteen times and was hospitalized six times.

29. She had a cardiac ablation in December 2010 to treat the A-fib, but it was not initially successful. Her doctors informed her that she may experience A-fib episodes again and require another ablation in the future.

30. In June 2015, Susan had knee replacement surgery on her right knee.

31. To this day, Susan suffers with the following physical, mental, and emotional ailments: high blood pressure, diabetes, arthritic pain in all joints, ulcers from the suture in her stomach, multiple abdominal hernias, irritable bowel syndrome, migraines, chronic nausea, depression, anxiety, lupus, diverticulitis, diabetic retinopathy, neuropathy, kidney stones, painful rashes, atrial fibrillation, and amyotrophic dermatomyositis.

32. In addition to the health issues plaguing Susan, Page suffers from severe depression and anxiety and has battled substance abuse issues since 2008.

33. From 2008 to present, Page was arrested on at least three occasions for offenses relating to her substance abuse issues and has spent significant time in recovery programs and rehabilitation clinics.

34. The Groves have dealt with Susan's frequent and substantial

health issues since 2001, and their daughter's mental health and substance abuse issues have only added to this substantial physical, emotional, and economic burden on the family. Bill, as the sole income generator in the family, felt immense pressure during this period to keep his family healthy and was often unable to satisfy all of his financial obligations.

35. Declining income from all sources combined with exorbitant expenses of Susan's healthcare costs and Page's substance abuse treatment created severe economic hardship beginning in 2010 and continuing to this day.

36. During this period, accounts held by Mr. Grove's investment company, Grove Investments, were entirely dependent on the soundness of the financial markets. Consequently, when the financial markets declined precipitously in late 2008, so did the accounts of clients of Grove Investments.

37. Additionally, many of Mr. Grove's clients pulled investments from Grove Investments to avoid further financial losses, and this loss of clientele further exacerbated Grove Investments' loss of revenue. The sudden and severe financial downturn resulted in Grove Investments' earnings declining from \$246,000.00 in 2008 to \$154,000.00 in 2009.

38. Nonetheless, despite the great financial burden related to Susan's health, Page's substance abuse treatment, and the economic pressures from the decline in Grove investments, the Groves have

made every effort to pay their tax liabilities. The Groves have paid over \$380,000.00 towards their income tax liabilities since January 2019.

39. Plaintiff's attorney sent an original Request for Abatement packet to IRS on May 22, 2019. A stamped receipt from IRS dated June 3, 2019, is attached hereto as "Exhibit A".

40. On August 26, 2019, J. L. Williamson Law Group, LLC, received a letter from IRS in response to the penalty abatement letter. This letter is attached hereto as "Exhibit B."

41. On or about December 19, 2019, J.L. Williamson Law Group, LLC, sent a response to the August 26, 2019, letter to the address listed on the letter.

42. Because J.L. Williamson Law Group, LLC, did not hear anything back from IRS, the firm contacted IRS on July 11, 2022. IRS claimed to have no record of receipt of the December 19, 2019, letter.

43. A copy of the original Penalty Abatement Request was re-sent, along with a separate Form 843 (*Claim for Refund and Request for Abatement*) for each individual tax year requested. A stamped copy of the receipt of the revised penalty abatement letter and additional requested documents dated July 15, 2022, is attached hereto as "Exhibit C".

III. CAUSE OF ACTION

44. Plaintiff, William F. Grove, incorporates by reference the facts alleged in paragraphs 1 through 43 of this Complaint as fully

set forth herein.

45. Plaintiff's late filing and late payment of income tax liabilities for tax years 2010 through 2016 was due to reasonable cause, and therefore, he should be relieved from payment of these penalties.

46. Per Treas. Reg. § 301.6651-1(c)(1), failure to pay will be due to reasonable cause to the extent that the taxpayers have made a satisfactory showing that they exercised ordinary business care and prudence in providing for payment of their tax liability and were nevertheless either unable to pay the tax or would suffer undue hardship if the tax had been paid on the due date.

47. Mr. Grove has paid over \$380,000 towards his income tax liabilities since January 2019 and demonstrated his ordinary business care and prudence.

48. Per IRM § 1.2.12.1.2, the IRS is obligated to carefully analyze any sound reason advanced by a taxpayer as the cause for a delay in filing a return. One example of a sound cause for delay which, if established, will be accepted as reasonable cause is the death or serious illness of the taxpayer or a death or serious illness in his or her immediate family.

49. As catalogued above, Mr. Grove's wife and daughter have endured a plethora of serious illnesses in the years 2010-2018. This is a sound reason as the cause for a delay in filing a return per IRM § 1.2.12.1.2.

50. IRC § 6651(a)(2) provides that in case of failure to pay tax, additional penalties may be added, unless the failure is due to reasonable cause and not due to willful neglect. The reasonable cause in this case should relieve Plaintiff of any penalties under this statute.

IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays the following:

1. abatement of all penalties assessed against them for tax years 2010 through 2018;
2. award of attorney's fees pursuant to IRC § 7430; and
3. such further relief as the Court deems just and equitable.

Respectfully submitted this May 28, 2024.

s/ Jeffrey L. Williamson
Jeffrey L. Williamson, Esq.
Bar Number: 255935
Attorney for Plaintiff

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AFFIDAVIT

Now comes the affiant, William F. Grove, and swears as follows:


1. My name is William F. Grove, I have been married to Susan H. Grove since 1982, and my address is 208 Pelican Place, St. Simons Island, Georgia 31522.
2. Susan was diagnosed with advanced-stage fallopian tube cancer in 2001.
3. Susan's immune system was weakened following the chemotherapy to treat her cancer, and she suffers from numerous diseases and ailments that have made it impossible for her to work.
4. As a result, I am the sole source of income for my family.
5. I founded Grove Investments, an investment advisory business, in 1991.
6. I was able to support my family with income from Grove Investments from 1991 to 2008.
7. During the financial crisis in 2009, Grove Investments lost significant revenue, and Susan's health had deteriorated to the point that she could not take care of herself or our daughter, Page.
8. The financial burdens and personal stress caused me to fall behind on my tax responsibilities.
9. I could neither foresee nor avoid the exorbitant healthcare costs or the precipitous decline of my business revenues.
10. I have examined the Forms 843 (*Claim for Refund and Request for Abatement*) for tax years 2011 through 2018 and related addendums, prepared by J.L. Williamson Law Group, LLC, and under penalties of perjury, I declare that the facts presented in this affidavit, those Forms 843, and related addendums are true, correct, and complete to the best of my knowledge and belief.

Further affiant sayeth not.

William F. Grove
William F. Grove, affiant

Subscribed and sworn to before me this 6th day of December 2019.

Terry Ann Waller
Notary Public
My commission expires: _____
Notary Public, Glynn County, Georgia
My Commission Expires Oct. 4, 2022




AFFIDAVIT

Now comes the affiant, Susan H. Grove, and swears as follows:


1. My name is Susan H. Grove. I have been married to William F. Grove since 1982.
2. I was diagnosed with late-stage, advanced fallopian tube cancer in 2001 and underwent debulking surgery at Memorial Hospital in Savannah, Georgia.
3. After undergoing months of chemotherapy, my immune system was seriously compromised, and it has not recovered since.
4. The chemotherapy exacerbated my degenerative osteoarthritis, and I was unable to move without leg braces and a cane.
5. During and immediately after chemotherapy, I was too sick to care for our daughter, Page. I was bed-ridden and required regular visits from nurses to administer intravenous medications.
6. During this period, I began suffering from severe depression and anxiety.
7. I had double hip-replacement surgery in the Fall of 2002.
8. I was subsequently diagnosed with hepatitis A in January 2003 and hospitalized.
9. From 2003 to 2007, I was frequently hospitalized as a result of kidney stones, diverticulitis flare ups, bowel blockages, and abdominal hernias. There was rarely a day that I was not sick and in pain during this time.
10. In Spring 2008, I was diagnosed with diabetes and spent over a week in the hospital trying to regulate my sugar levels.
11. I fell and fractured a vertebra in my lower lumbar in December 2009. I had to wear a back brace in addition to my leg braces. I was in excruciating pain for two months.
12. The pain from my back injury made it almost impossible to sleep, sit, stand up, walk, or eat without significant pain and discomfort. I required constant care.
13. From October 2009 to December 2009, I was admitted to the hospital to repair eight separate abdominal hernias that had developed following the chemotherapy.
14. As part of the surgery to repair the hernias, a titanium mesh was placed in my abdomen and subsequently became infected. The infection left me grievously ill.
15. The surgery to remove the mesh and replace it with bovine stomach lining nearly killed me. I spent five weeks in the hospital as a result of these procedures.
16. In 2013, I was diagnosed with atrial fibrillation. I was hospitalized approximately fourteen times for my atrial fibrillation and required a cardiac ablation to get my condition under control.

17. I have also been diagnosed with amyotrophic dermatomyositis. This condition increases the likelihood of developing cancer.
18. To this day I suffer from the following illnesses:
- a. high blood pressure,
 - b. diabetes,
 - c. arthritic pain in all joints,
 - d. ulcers from a suture in my stomach,
 - e. multiple abdominal hernias,
 - f. irritable bowel syndrome,
 - g. migraines,
 - h. chronic nausea,
 - i. depression,
 - j. anxiety,
 - k. lupus,
 - l. diverticulitis,
 - m. diabetic retinopathy,
 - n. neuropathy,
 - o. kidney stones,
 - p. painful rashes,
 - q. atrial fibrillation. and
 - r. amyotrophic dermatomyositis
19. Since 2008, my daughter, Page, has suffered from substance abuse issues, has been arrested on at least three occasions because of her substance abuse, and frequently receives care from drug rehabilitation facilities.
20. I have examined the Forms 843 (*Claim for Refund and Request for Abatement*) for tax years 2011 through 2018 and related addendums prepared by my husband's attorney (Jeffrey L. Williamson, Esq, of J. L. Williamson Law Group, LLC), and under penalties of perjury, I declare that the facts presented in this affidavit, those Forms 843, and related addendums are true, correct, and complete to the best of my knowledge and belief.

Further affiant sayeth not.


Susan H. Grove, affiant

Subscribed and sworn to before me this 6 day of December 2019.


Notary Public
My commission expires: 3.21.2020

